fact taken control of commerce between points in the same state passing through another state. Authority is abundant to the effect that the provisions of the Act as to rates apply to such commerce. *United States* v. *Delaware, L. & W. R. Co.*, 152 Fed. 269; *Chicago, St. P., M. & O. Ry. Co.* v. *United States*, 162 Fed. 835; *Milk Producers' Ass'n* v. *Delaware, L. & W. R. Co.*, 7 I. C. C. 92. These cases rely on the words of § 1, defining the scope of the Act, "from one State . . . to any other State, . . . provided that the provisions of this Act shall not apply to transportation . . . wholly within one State." The language of the Carmack Amendment is as broad and should not be construed to have a less comprehensive scope. The narrow interpretation adopted in the principal case defeats the uniformity which Congress presumably sought to secure, and it is submitted that it would be much preferable to construe the Amendment broadly to cover this as well as other kinds of interstate commerce.

INTERSTATE COMMERCE — INTERSTATE COMMERCE COMMISSION — POWER TO INSPECT CORRESPONDENCE OF CARRIERS. — While engaged, in response to a resolution of the Senate, in investigating alleged financial and political practices of the defendant railroad, the Interstate Commerce Commission requested the railroad to give the examiners access to its correspondence files. The defendant refused. *Held*, that there was no error in refusing a mandamus to compel the railroad to give such access. *United States* v. *Louisville & Nashville R. Co.*, Sup. Ct. Off., No. 499 (Feb. 23, 1915).

As an investigating body the Interstate Commerce Commission has broad and not very well-defined powers and duties. Under Section 12 of the Interstate Commerce Act, it may, by compelling attendance of witnesses and production of books and papers, call for such information as it needs to carry out the purposes for which it was created. 4 U. S. COMP. STAT. 1913, § 8576. This section gives merely a judicial power to call for papers by subpœna, not a power to inspect them through examiners; and constitutional doubts have led the Supreme Court to hold that the inquisitorial power may be used only in aid of the quasi-judicial functions of the Commission. *Harriman* v. *Interstate Commerce Commission*, 211 U. S. 407. Section 20 of the Act empowers the Commission to prescribe the forms of accounting and traffic records, and gives its agents access to the "accounts, records and memoranda" of the carriers. 4 U. S. COMP. STAT. 1913, § 8592 (5). As to records of an accounting nature, this section has been given the broadest possible construction. See *Interstate Commerce Commission* v. *Goodrich Transit Co.*, 224 U. S. 194. It seems clear, however, that it was intended to apply only to traffic and accounting records, and not to correspondence files; it was certainly so understood by the Commission, which itself drafted and recommended the provision. See 19th ANNUAL REPORT, I. C. C., pp. 11, 182. There was nothing in the Act, therefore, to justify the roving commission sought in the principal case. See also *United States* v. *Nashville, C. & St. L. Ry.*, 217 Fed. 254.

JOINT-WRONGDOERS — INDEMNITY: PARTIES NOT *IN PARI DELICTO*. — A colt was injured by a strand of barbed wire which was permitted to trail into the highway by reason of the negligence of both the township and the owner of the adjacent land. The township, having been compelled to pay a judgment for damages to the owner of the colt, brings an action over against the landowner. *Held*, that it may recover. *College Township* v. *Fishburn*, 72 Leg. Intell. 34 (Dist. Ct., Pa.).

The decision assumes the doctrine not generally accepted elsewhere that a mere township is under the same liability as a municipality for negligent maintenance of a highway. On this basis, it permits the township, in accordance with the usual rule, to recover over against the person who negligently created or continued the dangerous condition which caused the damage for which it

had to answer. *Washington Gas Light Co.* v. *District of Columbia*, 161 U. S. 316; *Inhabitants of Westfield* v. *Mayo*, 122 Mass. 100; *City of Astoria* v. *Astoria & C. R. Co.*, 67 Ore. 538, 136 Pac. 645; see 4 DILLON, MUNICIPAL CORPORATIONS, 5 ed., §§ 1727–1730; BISHOP, NON-CONTRACT LAW, § 535. In situations of this character, although the negligent parties may be jointly liable to third persons, as between themselves they are not *in pari delicto*, for one merely stands sponsor for the exercise of due care by the other, and the one subject to the primary duty incurs the ultimate liability. *Gray* v. *Boston Gaslight Co.*, 114 Mass. 149; *Oceanic Steam Nav. Co.* v. *Compania Transatlantica Espanola*, 134 N. Y. 461, 31 N. E. 987, 144 N. Y. 663, 39 N. E. 360; *Central of Georgia R. Co.* v. *Macon Ry. & Light Co.*, 140 Ga. 309, 78 S. E. 931. Despite the concurring breach of duty, the principles of contributory negligence do not apply, for the right to indemnity is determined, not by comparing the efficiency of the negligence of each in causing the resulting loss, but by ascertaining the duties of the wrongdoers *inter se*. See 21 HARV. L. REV. 233, 242. But *cf. Nashua Steel and Iron Co.* v. *Worcester & Nashua R. Co.*, 62 N. H. 159. The result of the principal case is the more easily reached because of the anomalous doctrine of the Pennsylvania courts that the parties here, though equally liable to the outsider, are not chargeable as joint tortfeasors. *Dutton* v. *Borough of Lansdowne*, 198 Pa. St. 563, 48 Atl. 494. See *Brookville Borough* v. *Arthurs*, 130 Pa. St. 501, 515, 18 Atl. 1076, 1077; 15 HARV. L. REV. 159.

LIBEL AND SLANDER — DEFENSES — LIBEL OF BUSINESS CONDUCTED IN VIOLATION OF STATUTE. — The plaintiffs were engaged in the milk business, under the name of "The Lambert Dairy Company," in violation of a statute which made it a misdemeanor to conduct business under an assumed name without filing a certificate showing both the fictitious and the actual names of the participants. The defendant accused the dairy company of selling adulterated milk. The plaintiffs bring an action of libel for injury to the business. *Held*, that they cannot recover. *Williams* v. *New York Herald Co.*, 150 N. Y. Supp. 838 (App. Div.).

The statute in the principal case was probably designed to protect creditors and would not of itself be a defense for ordinary tortfeasors. *Wood* v. *Erie R. Co.*, 72 N. Y. 196. Hence, if the plaintiffs were suing for injury to their individual reputations, it seems that recovery should be allowed. *Long* v. *Chubb*, 5 C. & P. 55. This would accord with the general doctrine that a plaintiff's illegal conduct, unless a proximate cause, is no bar to his action. *Sutton* v. *Wauwatosa*, 29 Wis. 21. See 18 HARV. L. REV. 505; 27 HARV. L. REV. 317, 338. Even where the action is for damage to the plaintiffs in their business, as in the principal case, their illegality would not be a good defense by way of justification. *Rutherford* v. *Paddock*, 180 Mass. 289, 62 N. E. 381. But the breach of the statute does go to the merits of their right to maintain an action. For it seems impracticable to differentiate between an interference with the profits of an illegal business, and with the profits of an otherwise legal business carried on under an unlawful name. The profits, then, being those of an illegal undertaking, the plaintiffs cannot complain that they have been diminished. The cases which deny recovery to an unlicensed physician when his professional reputation is libelled seem closely analogous. *Hargan* v. *Purdy*, 93 Ky. 424, 20 S. W. 432; see *Collins* v. *Carnegie*, 1 A. & E. 695; *Marsh* v. *Davison*, 9 Paige (N. Y.) 580. It is possible that recovery might also be denied on the ground that, towards a business illegally conducted, there exists no duty with regard to the use of words. See *Johnson* v. *Irasburgh*, 47 Vt. 28; 27 HARV. L. REV. 317, 339.

LIFE ESTATES — RECOVERY BY LIFE TENANT FOR INJURY TO THE INHERITANCE: RELATION TO LIABILITY FOR PERMISSIVE WASTE. — The plaintiff, a